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EXAMINER

KIM, ANDREW

ART UNIT PAPER NUMBER

3712

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,157

Applicant(s)

THOMAS ET AL.

Examiner

Andrew Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/21/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/21/03 12/6/04 7/19/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seelig et al. (US 6,758,473 B2), "Seelig" in view of Driscoll et al (US 6,496,235), "Driscoll".

Seelig discloses a gaming machine with a display of a bonus indicator which is linearly moveable by a drive mechanism (as cited in claims 1, 6-11, and 16) that positions the display at one of a plurality of bonus indicating positions (fig. 1, items 30a-l). Seelig has been cited to illustrate that a display moving along a linear (fig. 2, slot 60) or non-linear track (col. 7, lines 30-34) is old and well known in the art.

Driscoll discloses a gaming machine with an LCD that slides over a background, and particularly along an elongated, vertical object (fig. 2, item 8) (as cited in claims 1-6

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and 8-16). The computer inside the LCD unit will keep track of the frame's position so that it will know the current status of the colored background (col. 2, line 40) which reads on the claimed limitation, "a gaming machine wherein the CPU selects one of the plurality of video images to display on the flat panel display as a function of the position of the flat panel display" (as cited in claims 2 and 12). Furthermore, the instant specification defines a video image to be any variety of static or dynamic images, such as animations, motion pictures, photographs, or other video representation (paragraph 8, lines 7-9). Driscoll has been cited to illustrate an LCD (flat panel display) moving along a linear (fig. 2) or non-linear track (col. 4, lines 36-44) and further being controlled by a central processing unit (CPU) (abstract) is old and well known in the art. Additionally, the Examiner notes an LCD is a flat panel display since the specification states flat panel displays are such devices as LED displays, plasma display, field emission display, digital micromirror devices (DMD), and LCD displays (paragraph 7, lines 4-7).

Regarding claims 1, 10, 11, and 16, Seelig discloses the claimed invention with the exception of

- a drive mechanism connected to a flat panel display,
- a central processing unit having a memory for storing a plurality of video images, the central processing unit further for selecting one of the plurality of video images and communicating the selected video image to the flat panel display for display of the selected video image.

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- And the central processing unit further for controlling the drive mechanism to position the FPD.

Regarding claims 1, 10, 11 and 16 pertaining to a FPD connected to a drive mechanism, Seelig discloses a display of a bonus indicator that is preferably animated and three-dimensional (col. 6, line 7) attached to the drive mechanism (fig. 2) which positions the display along a slot in the gaming display (fig. 2, item 60), but does not explicitly disclose a FPD connected to a drive mechanism. However, the Applicant discloses in paragraph 8 that the mobile FPD can be utilized as a game marker as a point or simply as a visual entertainment device that may or may not provide information pertinent to the game outcome. One of ordinary skill would have seen the bonus indicator of Seelig analogous to the pointer FPD of Applicant. In an analogous reference, Driscoll teaches a game with a LCD which slides over a background and particularly along an elongated, vertical object (fig. 2, item 8). The LCD is analogous to the FPD because the Applicant disclosed that the FPD could be an LCD (Thomas, paragraph 7) and slides along a vertical track similar to Seelig's and the Applicant's invention (fig. 5). Driscoll teaches this aspect to enhance game play (Driscoll, col. 1, line 35). Particularly, Driscoll states that, "the invention allows the LCD's normally static colored background to change. This change can be manifested in the form of but is not limited to a scrolling landscape or a set of graphics which would introduce a new theme to the game playing device" (Driscoll, col. 1, lines 16-20). Driscoll further discloses using an LCD as a component or components in a game (col.1, line 11).

One of ordinary skill would have recognized the benefit of attaching Driscoll's LCD onto Seelig's drive mechanism because the modified invention would have appeared more appealing and exciting to a player and in turn, have the player play the game and produce profit for the gaming establishment. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Seelig with an LCD attached to the drive mechanism to create a more visually appealing gaming machine by introducing new themes to the player (Driscoll, col. 2, line 49) and entice the player to play the game initially and longer which produces profit for the gaming establishment.

Regarding claims 1, 10, 11 and 16 pertaining to a central processing unit (CPU) having a memory for storing a plurality of video images, the central processing unit further for selecting one of the plurality of video images and communicating the selected video image to the flat panel display for display of the selected video image, Seelig discloses a memory (col. 6, line 21) and several controllers (fig. 2, items 40-42) that control the bonus indicator, random numbers, and the reels, instead of disclosing the claimed CPU. In an analogous reference, Driscoll teaches, "a micro controller within the game playing device will have knowledge of where the LCD is at any given time during play in reference to the ... game playing device housing. This knowledge is used to effect game play and product performance. The product will react in accordance to the current background via the LCD ... to enhance game play" (Driscoll, col. 1, lines 28-35). Driscoll also states, "There may be images that will only appear when the LCD is moved to certain parts of the play surface" (Driscoll, col. 4, line 50).

One of ordinary skill in the art would have recognized the micro controller, as disclosed by Driscoll, reads on the claimed invention because it would have a memory for storing a plurality of video images, the ability to select one of the stored images, and communicate the selected video image to the FPD for display of the selected video image. One of ordinary skill would be motivated to combine the micro controller, as disclosed by Driscoll, with Seelig's invention to control and operate the LCD. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Seelig with a LCD controlling CPU as taught by Driscoll because it is desirable for gaming to enhance the stimulation and excitement experienced by players by introducing new themes to the game players and in turn, have the player play the game and produce profit for the gaming establishment as well as storing and displaying a plurality of images to the LCD.

Regarding claims 1, 10, 11 and 16 pertaining to the central processing unit further for controlling the drive mechanism to position the FPD, Seelig, discloses a controller (fig. 2, item 40, and col. 8, lines 1-8) that controls the drive mechanism, instead of explicitly disclosing using the same controller to operate both the bonus indicator and images displayed to the LCD. In an analogous reference, Driscoll discloses a micro controller to operate the LCD as previously discussed. However, having one controller operating several different aspects of an apparatus was notoriously well known at the time of the Applicant's invention. Having one controller operating several different aspects of an apparatus reduces the number of components and the cost of the apparatus, which respectively, simplifies the apparatus and decreases expenses. Therefore, it would

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have been obvious to one of ordinary skill in the art at the time of the invention to have one controller operate both the LCD and the drive mechanism to simplify the apparatus and reduce costs.

Regarding claims 2 and 12, Seelig as modified by Driscoll discloses a gaming machine wherein the central processing unit selects one of the plurality of video images to display on the flat panel display as a function of the position of the flat panel display in the game display (Driscoll, col. 4, line 50).

Regarding claims 3 and 13, Seelig as modified by Driscoll discloses a central processing unit that determines a game outcome but does not explicitly disclose that the game outcome determines the video image on the LCD selected by the central processing unit. Instead, Seelig discloses, "The outcome of the game may be determined by comparing the random number to a table of outcomes stored in a memory and accessed by controller...that which causes gaming outcome display (Fig. 1, 21), or game reels 24, 25, and 26, to display or communicate the outcome of the game that corresponds to the outcome of the random number generator" (Seelig, col. 6, lines 15-35). Seelig further discloses that the controller operates the bonus indicator and any bonus-activating event such as a game outcome (fig. 3, and the accompanying description).

One of ordinary skill would have seen the benefit of having the game outcome determine the output of the LCD because the LCD should correspond with the activities of the gaming machine and keep the player's interest by providing a highly attractive and entertaining device for displaying bonus prizes (Seelig, col. 2, line 45). Therefore, it

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would have been obvious to one of ordinary skill in the art at the time of the invention to enable the game outcome to determine the video image selected by the CPU to keep the player's interest by providing a highly attractive and entertaining device for displaying bonus prizes.

Regarding claims 4 and 14, Seelig as modified by Driscoll discloses

- the central processing unit determines a game outcome (Seelig, col. 6, lines 15-35);
- the game outcome determining the position of the flat panel display (Seelig, fig. 3);
- the game outcome further for determining the video image displayed on the flat panel display (Seelig, fig. 3 and Driscoll, col. 2, lines 42-48).

Regarding claims 5 and 15, Seelig as modified by Driscoll discloses the video image communicated to the flat panel display is a video data stream for producing an animated video image on the flat panel display (Driscoll, col. 2, line 38).

Regarding claim 6, Seelig as modified by Driscoll discloses a gaming machine wherein the drive mechanism comprises a carriage moveable relative to the gaming display, the flat panel display attached to the carriage, and a motor to drive the carriage and position the flat panel display (Seelig, fig. 2 and the related description thereof).

Regarding claim 7, Seelig as modified by Driscoll discloses that the display may move in a non-linear manner but does not explicitly disclose the claimed drive mechanism. However, it would have been obvious to one of ordinary skill in the art at the time of the invention in order to enable the FDP to move in a non-linear fashion (Seelig, col. 7, line 34) to have the drive mechanism comprising a first carriage and a second carriage, the first carriage moveable relative to the game display, the second

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carriage moveable relative to the first carriage, the flat panel display connected to the second carriage, each carriage having a motor for positioning the flat panel display.

Regarding claim 8, Seelig as modified by Driscoll discloses that the display be attached to the mechanism with a bracket (Seelig, col. 7, line 26) instead of magnetically. However, one of ordinary skill would recognize that a bracket could be interchangeable with a magnet since the advantage of a magnet was not explicitly disclosed. Therefore, it would have been obvious to one of ordinary skill at the time of the invention to have the second carriage magnetically coupled to the flat panel display through the game display as another way to fasten the display to the drive mechanism.

Regarding claim 9, Seelig as modified by Driscoll discloses the game display has a track therethrough (Seelig, fig. 2, item 60), the drive mechanism is located behind the game display (Seelig, fig. 2, item 50), the flat panel display is located in front of the game display (Seelig, fig. 2, item 44), and a carriage connects the drive mechanism to the flat panel display through the track (Seelig, fig. 2, item 56).

Citations

The following prior art of record is not relied upon but is considered pertinent to applicant's disclosure:

Mohlere (US 4,422,027) – Linear motor controller

Little (US 3,074,173) – Drafting apparatus

Seelig et al. (US 6,537,152 B2) – Gaming device with animated figure

Seelig et al. (US 2004/0180716) – Gaming display with movable indicator and methods of use

Seelig et al. (US 6,758,473) – Gaming device with movable indicator

Seelig et al. (US 2002/0094861) – Gaming device with bonus indicator

Etch a sketch (<http://www.etch-a-sketch.com>) – A gaming apparatus with a stylus which can access a two dimensional surface

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Kim whose telephone number is 571-272-1691. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Jones can be reached on 571-272-4438. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.K. 4/3/2006

SCOTT JONES
PRIMARY EXAMINER
